

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

**KATHLEEN SCHWEER, individually
and on behalf of all others similarly
situated,**
Plaintiff,

v.

ELEVATE HEALTH LLC,
Defendant.

Case No. 5:24-cv-01323-JD



**FIRST JOINT MOTION FOR EXTENSION OF DEADLINES TO FILE
MOTIONS TO JOIN PARTIES AND AMEND PLEADINGS**

Plaintiff Kathleen Schweer (“Plaintiff”) and Defendant Elevate Health LLC (“Elevate”) (collectively, the “Parties”), by and through their attorneys of record, hereby and pursuant to Federal Rules of Civil Procedure 6(b) and 16(b)(4) as well as LCvR 6.3 of the Western District of Oklahoma, jointly request this Court enter an Order extending the deadlines to file motions to join additional parties and amend pleadings, *only*, by sixty (60) days. [See Specialized Scheduling Order, ECF Doc. 27]. In support of this request, the Parties state as follows.

1. Plaintiff has filed this suit alleging that Elevate improperly contacted Plaintiff in violation of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, et seq. Plaintiff also seeks to certify a class of alleged similarly situated individuals.

2. Elevate disputes Plaintiff's allegations in full and, in particular, disputes Plaintiff's allegations that Elevate placed any outgoing communications to Plaintiff as that is something that Elevate does not do.

3. To the extent that Plaintiff was improperly contacted at all, as alleged, those communications came from third parties that Elevate may have contractual and business relationships with.

4. Since the case was first filed, Elevate has been diligently investigating the source of the alleged improper communications that were received by Plaintiff and that form the basis of her TCPA claims. While Elevate has a good sense of who the third parties may be, Elevate's investigation into these third parties is still ongoing. In particular, Elevate is still in the process of locating documents evidencing its relationship with such third parties and determining the extent to which such third parties may be liable to Elevate for the claims asserted by Plaintiff. As such, Elevate is not quite yet in a position to file any third-party claims and wants to ensure that it has adequately adhered to its pre-suit investigation requirements prior to making claims against any of these third parties.

5. Elevate has explained this situation to Plaintiff, and Plaintiff understands Elevate's position. Elevate has also been in communication with Plaintiff about whether Plaintiff may want to bring these parties into the case through an amendment to her Complaint, and Plaintiff is still contemplating whether or not to do so.

6. Therefore, the Parties believe additional time is needed for (1) Elevate to complete its pre-suit diligence about whether to file third-party claims and against whom such claims should be filed, and (2) Plaintiff to make a definitive decision on whether she

wants to amend her Complaint to bring the third parties in directly. All Parties believe that additional time is needed to make these determinations and that additional written discovery, which is ongoing, may provide further direction.

7. The Parties believe that a sixty (60) day extension of *only* the deadlines to file motions to join additional parties and amend pleadings, both of which are currently set for April 30, 2025, is warranted under the circumstances.

8. Extending the deadlines to file motions to join additional parties and amend pleadings by sixty (60) days should not impact any other dates in the Specialized Scheduling Order (ECF Doc. 27), which has all other deadlines extending into 2026.

9. This is the Parties' first request for any extension and this request is made in good faith and without purpose of causing delay or prejudice.

RELIEF REQUESTED

The Parties jointly request that the Court extend the following deadlines of the Specialized Scheduling Order dated March 31, 2025 (ECF Doc. 27) by 60 days as follows:

EVENT	CURRENT DEADLINE	AMENDED DEADLINE
Motions to join additional parties	April 30, 2025	June 30, 2025
Motions to amend pleadings	April 30, 2025	June 30, 2025

WHEREFORE, the Parties request that the Court enter an Order extending the Specialized Scheduling Order deadlines as requested above.

Dated: April 24, 2025.

Respectfully submitted,

/s/ Amy Sherry Fischer

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-AND-

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April 2025, I electronically filed the enclosed FIRST JOINT MOTION FOR EXTENSION OF DEADLINES TO FILE MOTIONS TO JOIN PARTIES AND AMEND PLEADINGS, and this Certificate of Service, through the Court's CM/ECF filing system, which will provide notice to all parties through their counsel of record.

/s/ Amy Sherry Fischer
Amy Sherry Fischer